

Department of Planning and Development

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M E M O R A N D U M

TO: Councilmember Peter Steinbrueck, Chair, UDP Committee
Councilmember Richard Conlin
Councilmember Tom Rasmussen

FROM: Diane M. Sugimura

DATE: May 18, 2006

SUBJECT: Committee Briefing: DPD Enforcement Discussion, May 24, 2006

During my April monthly report, Councilmembers expressed interest in a more in-depth discussion on enforcement issues. Below is general information on the Code Compliance Unit, to provide background for the discussion. This will look familiar to Councilmember Rasmussen since we briefed his committee in March. My understanding is that the Committee is particularly interested in the egregious offender and the repeat offender ... how best to gain compliance with the five to ten percent most difficult cases. We look forward to discussing these issues with you on May 24.

Background: Organization of the Code Compliance Division

Housing and Zoning Inspections: This unit includes 13.5 inspectors (including 2 senior inspectors and 1 shoreline inspector) and 2 inspector supervisors. Senior inspectors concentrate on unfit buildings and premises, condo conversion inspections and complex enforcement issues (such as those involving multiple agencies). Examples of the most common violations:

- Substandard rental housing conditions;
- Illegal dwelling units;
- Vacant buildings not meeting standards;
- Junk storage in residential zones;
- Parking (too many vehicles, where parked);
- Shoreline violations;
- Violations of home occupation requirements;
- Existing uses not allowed in a zone or without proper use permit;
- Buildings or premises unfit for human habitation; and
- Vegetation overgrowth into right-of-way from private property.



Construction Complaint Support: This unit includes two positions, who work closely with the construction and site inspectors in the Operations Division. Primary functions include:

- Assist citizens with construction-related complaints; and
- Manage violation cases involving building, electrical and site-development issues (grading, vegetation clearing, environmentally critical areas, side sewer).

Property Owner/Tenant Assistance Unit: This unit is composed of one supervisor and two part-time staff. Primary functions include:

- Enforce Just Cause Eviction Ordinance for residential tenants;
- Administer and enforce Tenant Relocation Assistance Ordinance for residential tenants forced to move by development activity; and
- Respond to citizen calls for assistance with landlord/tenant issues, which are often beyond DPD's jurisdiction.

Enforcement Facilitation Unit: This unit includes two professional positions, and one clerical. Primary functions include:

- Assist Law Department with enforcement litigation by assuring that our case documentation is adequate, preparing declarations, motions, settlement agreements and other legal documents, negotiating compliance and settlement terms, and assisting at pre-trial settlement hearings and trials.
- Represent DPD before the Hearing Examiner (44 citation hearings in 2005);
- Perform research related to claims filed against the City; and
- Manage complex public disclosure requests.

Overview of Complaint and Enforcement Process

The DPD Code Compliance program primarily responds to reported violations received from citizens and a variety of public agencies, such as the Fire and Police departments. The program is not designed as a proactive program and therefore we do not seek out violations.

The table below shows the number of reported violations received in 2005 by category of issue. These numbers are generally fairly consistent from year to year.

Summary of Violation Complaints in 2005			
Complaint Category	Number	% of total	% with violation confirmed
Zoning (incl. shoreline)	1388	33 %	63 %
Construction	1130	26 %	43 %
Vegetation overgrowth	936	22 %	60%
Housing	391	9 %	49 %
Vacant building monitoring	216	5 %	75 %
Unfit buildings	15	< 1 %	53 %
Noise	222	5 %	n/a*
Total	4298	100 %	53 %

* Noise complaint response is handled in the Operations Division

When we confirm that a violation exists, we usually issue a warning to the responsible property owner (and sometimes a tenant or business operator) to allow voluntary compliance. A significant number of violations are resolved after issuance of a warning. We do not issue warnings when we have had recent prior violations involving the same property owner, however. If compliance is not achieved after a warning, we issue either a Notice of Violation or a citation, depending on the relevant code provision. A Notice of Violation (NOV) is a formal way of setting a time frame for compliance; daily fines start to apply after failure to comply within that time frame. To collect the fines associated with a NOV, the City initiates a civil lawsuit against the responsible party in Municipal Court. A citation is more like a traffic or parking ticket; as soon as a citation is issued, a fine is levied for having committed the violation. The party who receives a citation can appeal it to the Hearing Examiner to reduce the fine or to argue that they are not responsible for the violation.

Because of the constraints of the legal system, it can take a long time to resolve some violation cases which have significant negative impacts on surrounding properties. Neighbors often are frustrated by what appears to be inaction on the part of the City as a case is litigated and they see no tangible improvement. In addition, some violators will clean up or cease a violation in response to a notice, only to repeat the violation a short while later. Repeat violations are relatively common for issues such as illegal dwelling units, parking in required yards at residential properties, vehicle repairs in residential zones, and junk storage.

We also perform requested inspections, for a fee, such as inspection of rental housing structures which are being converted to condominiums, or when a property owner wishes to demolish a residential building in poor condition but is not ready to seek permits for a replacement use. These are generally requested by the property owner.

Enforcement Issues and Challenges

Complaint-Based System: There are a number of limitations with a complaint-based program. Different properties with similar conditions may be treated differently if we receive a complaint about one but not another, for instance. In addition, we believe that cultural and language barriers or fear of loss of housing, prevent some citizens from reporting problems. Of special concern is the likelihood that serious substandard housing conditions are not reported by tenants who are immigrants, very low income, or mentally ill or otherwise more vulnerable to risk of homelessness, abuse or intimidation.

Lack of Access to Premises: If we are not able to obtain entry to the premises from either tenants, or from the property owner or manager, we are not able to observe or confirm reported violations. Over the years, we've requested administrative warrant authority through the State legislative process; however, that has not gained sufficient support. This would be particularly helpful for follow-up when we have reason to believe there may be health or safety risks for the occupants, the neighbors and/or the general public.

We recently worked with Seattle Police Department to gain access to a structure where Police had responded to a 911 call from one of the residents of the building. The report was that vagrants had broken into the building and were living on one of the deteriorated and vacant floors in the building. Our inspectors were then able to inspect with Police, and observed that the top floor was deteriorated and full of pigeons and rats (dead and alive), and that numerous tenant improvements were made to the occupied third floor without permits.

Fortunately, the portions of the building that were inspected were not so deteriorated or structurally deficient as to require demolition. We are working with the manager to cure the existing violations. This is a good example of how we can work with Police or other emergency personnel to gain access to buildings, which we otherwise are not able to do.

Citation Abatement Strategies: Under the Land Use Code, there are a handful of Single Family violations that are prosecuted using citations, as opposed to Notices of Violations. These include outdoor storage of junk (including inoperable vehicles), structures in required yards, parking of vehicles, keeping of animals, and home occupations. Unfortunately, we continue to have a certain number of violators who fail to cure their violations despite the receipt of two, three or more citations. This occurs most frequently with junk storage violations.

When DPD issues multiple citations and still cannot obtain compliance, the Land Use Code allows the city to file an action to abate the violation under SMC 23.91.020. This type of abatement differs from our unfit building and premises abatements that we perform under SMC Chapter 22.208. Abatements performed under SMC Chapter 22.208 are collected through property tax liens within three years; whereas the citation abatement costs will be collected through ordinary judgment liens, will require City legal efforts to collect, and potentially will take more effort, and possibly more time, to collect. Since January we have referred 14 multiple citation cases to the Law Department for abatement. Two of the referrals have been filed in court, and we anticipate that the others will be filed soon. We will be evaluating how effective this strategy is for achieving our compliance goals, as well as the cost-effectiveness of this strategy.

DPD Supports Health Code Enforcement Changes

DPD is hopeful that proposed amendments to the King County Health Code will be adopted that will make it easier for the Health Department to prosecute violations concerning rats and other "vector nuisances." Currently, the Health Code provides that all health code violations in Seattle must be prosecuted criminally, and this has resulted in very few prosecutions. The proposed changes would allow Health Code violations in Seattle to be handled, as they are in the county, as civil matters, which is expected to make it easier to prosecute violations.